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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

11 IN RE: SOCIAL MEDIA ADOLESCENT
12 ADDICTION/PERSONAL INJURY
13 PRODUCTS LIABILITY LITIGATION

14 This Document Relates to:
15 ALL ACTIONS

MDL No. 3047

Case No. 4:22-03047-YGR

**OMNIBUS SEALING STIPULATION
PURSUANT TO THE ORDER GRANTING
MOTION TO FILE UNDER SEAL;
SETTING SEALING PROCEDURES**

17
18 Pursuant to the Court's Order Granting Motion to File Under Seal; Setting Sealing
19 Procedures ("Sealing Procedures Order") (ECF 341), the Parties, through their undersigned
20 counsel, hereby submit this Omnibus Sealing Stipulation.

21 The Parties declare in support of this Stipulation:

22 1. In accordance with Section II of the Sealing Procedures Order, entitled Post-
23 Briefing Omnibus Sealing Procedures, the Parties have met and conferred regarding the Parties'
24 proposed sealing and redactions in the Defendants' Brief in Support of Bellwether Discovery
25 Pool Selections (ECF 754) and Plaintiffs' Brief in Support of Bellwether Discovery Pool
26 Selections (ECF 755).

27 2. In accordance with the Sealing Procedures Order, the Parties have created the
28 attached Chart listing the portion of each Bellwether Brief to be redacted.

1 3. The Parties have limited proposed redactions to two categories of material:
 2 information about minors, including a minor's name, which is entitled to privacy protection under
 3 Federal Rules of Civil Procedure Rule 5.2(a); and Protected Health Information as defined by the
 4 Parties' Stipulated Second Modified Protective Order. (ECF 665).

5 4. In addition, the Parties have limited proposed redactions to materials that are not
 6 currently on the public docket.

7 5. Plaintiffs state the following:

8 a. Information about minors is broadly protected by F.R.C.P. 5.2(a) *See Dew*
 9 *v. City of Seaside*, No. 19-CV-06009-HSG, 2020 WL 7016638, at *2 (N.D. Cal. Apr. 15, 2020)
 10 (“[t]he documents include the full names of minors involved in this case, which are specifically
 11 entitled to privacy protection by Federal Rule of Civil Procedure 5.2(a)(3)”; *Price v. Heedon*,
 12 2010 WL 889862 (D. Mont. 2010) (ordering complaint providing full name of plaintiff’s minor
 13 daughter to be sealed and directed plaintiff to comply with Rule 5.2 in future filings); *Meyers v.*
 14 *Kaiser Found. Health Plan Inc.*, No. 17-CV-04946-LHK, 2019 WL 120657, at *2 (N.D. Cal. Jan.
 15 6, 2019) (“the Court agrees that compelling reasons exist to seal the parties’ filings that included
 16 the name of the plaintiff’s minor daughter”). *See also In re Flint Water Cases*, No.
 17 517CV10164JELMKM, 2021 WL 2254064, at *2 (E.D. Mich. May 20, 2021) (private medical
 18 information of the Bellwether Plaintiffs, identifying information of minors, and addresses of
 19 minor Plaintiffs, all is appropriate to redact and/or seal).

20 b. It is imperative that the court system not perpetuate harm by making the
 21 identities of vulnerable children known. *See Doe ex rel. Doe v. Kamehameha Sch./Bernice*
Pauahi Bishop Est., 625 F.3d 1182, 1184, 1188 (9th Cir. 2010) (Reinhardt, J., dissenting)
 22 (explaining that Rule 5.2(a) “reflects a policy judgment that little if any public interest lies in
 23 learning the identity of youthful litigants while a strong public interest exists in protecting their
 24 identities” *See also A.K.L v. Moreno Valley Unified Sch. Dist.*, No. EDCV18430JGBSHKX, 2021
 25 WL 4352362, at *4 (C.D. Cal. May 21, 2021).

27 c. Protected Health Information (“PHI”): “has the meaning set forth in 45
 28 C.F.R. §§ 160.103 and 164.501...and includes but is not limited to individually identifiable health

1 information, including demographic information, relating to either (a) the past, present, or future
 2 physical or mental condition of an individual; (b) the provision of health care to an individual..."
 3 Stipulated Second Modified Protective Order. ECF No. 665.

4 d. In *A.C. v. City of Santa Clara*, No. 13-CV-03276-HSG, 2015 WL 4076364,
 5 at *2 (N.D. Cal. July 2, 2015), Judge Gilliam found that when it comes to medical records,
 6 "compelling confidentiality concerns outweigh the presumption of public access to court
 7 records." *See Dalton v. Cnty. of San Diego*, No. 3:21-CV-2143 W (WVG), 2024 WL 1319719, at
 8 *1 (S.D. Cal. Mar. 27, 2024) (to the extent the exhibits identify a minor and implicate her
 9 criminal and mental health history, the documents may be sealed.); *San Ramon Reg'l Med. Ctr., Inc. v. Principal Life Ins. Co.*, No. 10-cv-02258-SBA, 2011 WL 89931, at *1 n.1 (N.D. Cal. Jan. 10, 2011) (finding that confidentiality of medical records under the Health Insurance Portability and Accountability Act of 1996 outweighed *Kamakana* presumption in favor of public access to court records); *Ballou v. McElvain*, No. 3:19-CV-05002-DGE, 2023 WL 8236530, at *2 (W.D. Wash. Nov. 28, 2023) (concluding that there is great need to protect sensitive medical information from public disclosure such as plaintiff's mental state, including mental health symptoms). *See also Liaw v. United Airlines, Inc.*, No. 19-CV-00396-WHA, 2019 WL 6251204, at *10 (N.D. Cal. Nov. 22, 2019) (private medical records sealed under higher 'compelling reason' standard); *Pratt v. Gamboa*, No. 17-CV-04375-LHK, 2020 WL 8992141, at *2 (N.D. Cal. May 22, 2020). ('compelling reasons' justify sealing Plaintiff's medical records which are deemed confidential under the Health Insurance Portability and Accountability Act of 1996); *Bruce v. Azar*, 389 F. Supp. 3d 716, 727 (N.D. Cal. 2019), aff'd, 826 F. App'x 643 (9th Cir. 2020) (courts have found under 'compelling reason' standard that a party's privacy interests in medical records and private information outweigh the public's interest in access.); *Woods v. City of Hayward*, No. 19-CV-01350-JCS, 2021 WL 4061657, at *20 (N.D. Cal. Sept. 7, 2021) (to the extent proposed redactions are based on medical privacy, privacy interests related to juvenile correctional records, or the privacy protections of Rule 5.2, plaintiff has shown 'compelling reasons' to maintain that material under seal and his requests are narrowly tailored).

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1 e. PHI, which is already subject to the Stipulated Second Modified Protective
 2 Order, should remain sealed in the Bellwether Briefs, including the statistical analysis and
 3 Plaintiff narratives detailing specific “past, present, or future physical or mental conditions” and
 4 “the provision of health care” such as hospitalizations. *See* ECF No. 665. The names and the
 5 parents’ names of minor plaintiffs should also remain sealed in accordance with F.R.C.P. Rule
 6 5.2(a). The Bellwether plaintiffs, all of whom were injured as minors, should be protected from
 7 any potential embarrassment resulting from having their PHI linked to their identities as
 8 recognized by this Court and well-established Ninth Circuit precedent.

9 6. Defendants’ position is that Plaintiffs’ medical histories are not subject to absolute
 10 protection, given that Plaintiffs have put those medical histories at issue by filing these lawsuits.
 11 *See, e.g., Howard v. Cox*, 2021 WL 4487603, at *2 (D. Nev. Sept. 30, 2021) (sealing medical
 12 records but declining to “require the parties to redact the parts of those records that they quote or
 13 paraphrase in their briefs because those points are relevant to [plaintiff’s] claims in this action”);
 14 *Cole v. Janssen Pharms., Inc.*, No. 15-CV-57, 2017 WL 2929523, at *3 (E.D. Wis. July 10, 2017)
 15 (“To the extent that the information from the medical records is incorporated into other
 16 documents filed by the parties or orders issued by this court, that information is relevant to the
 17 issues raised in the case and should be available to the public.”). Nonetheless, to obviate the need
 18 for the Court to address a sealing dispute, Defendants agree to seal certain material from these
 19 briefs without prejudice to their ability to argue that such material should be unsealed in
 20 subsequent filings.

21 THEREFORE, in accordance with the Sealing Procedures Order, the Parties stipulate and
 22 respectfully request that the Court accept their undisputed requests to maintain the redactions in
 23 the Defendants’ Brief in Support of Bellwether Discovery Pool Selections (ECF 754) and
 24 Plaintiffs’ Brief in Support of Bellwether Discovery Pool Selections (ECF 755), as set forth in
 25 attached Chart and the duly submitted Proposed Order Addressing All Undisputed Sealing
 26 Requests emailed to the Court’s proposed order inbox.

27 **IT IS SO STIPULATED AND AGREED**

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1 DATED: May 6, 2024

Respectfully submitted,

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1 PURSUANT TO STIPULATION, IT IS SO ORDERED
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